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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,906	02/05/2004	Volker Wack	WACK, V. ET AL.-2 (Cont)	5223
25889	7590	03/20/2006	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			TANNER, HARRY B	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/772,906

Applicant(s)

WACK ET AL.

Examiner

Harry B. Tanner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no mention the specification of the setting element and water outlet being on opposite sides of the setting body and facing in opposite directions. Applicant refers to page 16 of the specification and Figure 2 as support for the amendment to claim 1, however it is not clear from Figure 2 which direction outlet 4 faces and the text on page 16 makes no mention of the directions that various elements face. Furthermore, applicant shows no details for the structure of the mixing valve 8 and how the rotating shaft 21 provides the desired ratio of hot and cold water to an outlet 4 at the opposite side of the setting element.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al in view of Ta. Shimizu discloses the invention substantially as claimed. Shimizu discloses an electronic mixed water preparation device connected to a plurality of water feeding systems 43A-C and having an operating unit 7A with indicator 74A and input means 73A-F for presetting a nominal value, electronic

controller unit 50 acting on a control line for preparing mixed water via a mechanical setting element 21 operated by stepping motor 31 wherein the controller unit and the mechanical setting element are arranged in one single compact device 10 suited for mounting under plaster. Ta teaches the use of a single rotatably supported setting element 21, a setting body 36 for mixing the hot and cold water corresponding with its rotational position and a mixed water outlet 51 in which the setting element and water outlet are on opposite sides of the setting body and facing in opposite directions (see Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Shimizu such that it used a single rotatably supported setting element, a setting body for mixing the hot and cold water corresponding with its rotational position and a mixed water outlet in which the setting element and water outlet are on opposite sides of the setting body and facing in opposite directions in order to control the mixing of the hot and cold water rather than the sliding valve 15 in order to reduce the cost of the valve means in view of the teachings of Ta.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al in view of Ta as applied to claim 1 above, and further in view of Garriss. Shimizu discloses a micro-controller 51 which inherently is connected to data and program memory. Garriss teaches the use of an interface module 20 for connecting elements of a temperature control. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Shimizu such that it

included the use of an interface module for connecting elements of the temperature control in view of the teachings of Garris.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al in view of Ta as applied to claim above, and further in view of Garvey et al. Shimizu discloses a plurality of system functions set by the operating unit. Garvey teaches the use of a menu means in order to allow the user to program various system functions (see col. 13, lines 3-7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Shimizu such that it included the use of a menu means in order to allow the user to program various system functions in view of the teachings of Garvey.

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry B. Tanner whose telephone number is (571) 272-4813. The examiner can normally be reached 8:30 am to 5:00 pm Monday through Friday.

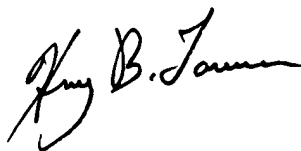
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler, can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Harry B. Tanner". The signature is fluid and cursive, with the first name "Harry" being more prominent.

Harry B. Tanner  
Primary Examiner  
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